

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**DANIEL MILLER**

***Plaintiff,***

**v.**

**UNITED STATES OF AMERICA**

***Defendant.***

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**Case No. 5:23-cv-00077-JRG-JBB**

**ORDER OF DISMISSAL**

Plaintiff Daniel Miller, proceeding *pro se*, filed the above-styled and numbered lawsuit under the Federal Tort Claims Act complaining of an injury he suffered at work while incarcerated. The case was referred to the United States Magistrate Judge in accordance with 28 U.S.C. § 636.

After review of the pleadings, the Magistrate Judge issued a Report on February 26, 2024, recommending that the lawsuit be dismissed. (Dkt. No. 8). The Magistrate Judge observed that by statute, the Inmate Accident Compensation Act, 18 U.S.C. § 4126, provides the sole remedy for a prisoner injured while at work. *Thompson v. United States*, 495 F.2d 192, 193 (5th Cir. 1974). As a result, the Magistrate Judge concluded that the Court lacked subject matter jurisdiction to consider Plaintiff's claims under the Federal Tort Claims Act.

Plaintiff received a copy of the Magistrate Judge's Report on March 1, 2024, but no objections have been received. As a result, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly


**ORDERED** that the Report of the Magistrate Judge (Dkt. No. 8) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled civil action is **DISMISSED** without prejudice for want of subject matter jurisdiction. It is further

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED**.

**So Ordered this**

**Jun 6, 2024**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE